

- 687 -

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
10.02 11  
12  
13  
14  
15  
16  
17  
18  
19  
10.03 20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34**OPENING ADDRESSES**

**CHAIR:** Thank you, Madam Registrar. Mr Mount.

**MR MOUNT:** Morena. Some changes in personnel, Mr Chair, the front table today, Ms Beaton and I are joint by Ruth Thomas who will lead today's witnesses. Mr Stone is here today in place of Annette Skyes who has been called to other matters today. It is also a pleasure to welcome Paula Tesoriero, the Disability Rights Commissioner from the Human Rights Commission and in a moment we will invite Ms Tesoriero to give a short statement on behalf of the Human Rights Commission.

Following that, we have three witnesses scheduled for today, they are Robert Martin, Anne Else and Dallas Pickering. As I said a moment ago, Ruth Thomas will lead their evidence.

As I say, the first order of the day is for a statement from the Human Rights Commission and Disability Rights Commissioner.

**CHAIR:** Thank you. Ms Tesoriero, my colleagues and I have been made aware of the statement to be made for and on behalf of the Human Rights Commission with you as the Disability Rights Commissioner and I would invite you now to make that statement.

\*\*\*

- 688 -

1                   **STATEMENT OF PAULA TESORIERO, DISABILITY RIGHTS**  
2                   **COMMISSIONER**

3  
4  
5   **MS TESORIERO:** E nga mana, e nga reo, raurangatira ma,  
6                   tena koutou katoa. Ko Paula Tesoriero ahau. Ko au  
7                   te Kaihautu Tika Hauatanga, mo te Kahui Tika  
8                   Tangata ki Aotearoa.No reira, tena koutou, tena  
9                   Koutou, tena koutou kato. Mauri tangata, mauri ora  
10.03 10                  Thank you, Mr Chair. I would first like to acknowledge  
11                  those who have fought so hard for this Inquiry to take  
12                  place. It is because of the courage and persistence of  
13                  many people over many decades that I have the opportunity  
14                  to address you today.

15                  And equally, I acknowledge all survivors - you were  
16                  failed by the very system that claimed to protect you.  
17                  We owe it to you to get this Inquiry right. I  
18                  acknowledge you all - who helped raise awareness of the  
19                  wrongs that were inflicted on you, those of you who  
10.04 20                  suffered in silence and those who are no longer with us.

21                  I also wish to acknowledge those who have gone  
22                  before me at the Human Rights Commission. Later in the  
23                  week you will hear from the former Chief Human Rights  
24                  Commissioner, Rosslyn Noonan, about the important work  
25                  that the Commission did in this area during her tenure as  
26                  the chief. I also acknowledge the clarity, commitment  
27                  and tenacity of both Paul Gibson, my predecessor, and the  
28                  former Race Relations Commissioner Dame Susan Devoy.  
29                  They and their teams were instrumental in building the  
10.05 30                  momentum leading to this Inquiry and I thank them for  
31                  their mahi.

32                  In particular, the E Kore Ano / Never Again campaign  
33                  launched in 2017 contributed to greater public awareness  
34                  about the nature and extent of the abuse that occurred in

- 689 -

1 places under the control of the State. Many  
2 New Zealanders signed the Human Rights Commission's open  
3 letter to the then Prime Minister demanding justice for  
4 survivors of state abuse and calling for an independent  
5 Inquiry.

6 The present government made a commitment during the  
7 last election to establish an Inquiry into the abuse of  
8 children in State care within its first 100 days in  
9 office. This promise formed the basis of the Inquiry  
10.06 10 that we have today.

11 Why is this a human rights issue? The Human Rights  
12 Commission retains a strong interest in these matters and  
13 in the work of this Inquiry. Abuse of citizens at the  
14 hand of the State constitutes a grave human rights  
15 violation. Indeed, the Universal Declaration of Human  
16 Rights was developed in response to the atrocities that  
17 occurred during World War 2 and the fatal consequences of  
18 a State devaluing its citizens based on certain  
19 characteristics.

10.06 20 This Inquiry has already heard powerful words about  
21 colonisation, about breaches of Te Tiriti o Waitangi,  
22 New Zealand's own human rights document. New Zealand was  
23 a significant architect of the Universal Declaration of  
24 Human Rights and obligations under Te Tiriti are echoed  
25 in the Universal Declaration. Both documents call for  
26 equality.

27 Since the Universal Declaration 71 years ago,  
28 New Zealand has signed up to several other major human  
29 rights treaties, including the United Nations Convention  
10.07 30 Against Torture, the Convention on the Rights of the  
31 Child, the Convention on the Rights of Persons With  
32 Disabilities, and the International Covenant on Civil and  
33 Political Rights. We have also endorsed the declaration  
34 of the Rights of Indigenous Peoples. These international

- 690 -

1 commitments all detail how New Zealand will promote the  
2 human rights of particular groups of people. They also  
3 reinforce the New Zealand Government's obligation to  
4 honour Te Tiriti. We like to think of ourselves as human  
5 rights leaders, a great place to bring up children, and a  
6 fair and just society.

7 But this is not true for everyone. Our institutions  
8 and systems have failed many of those whose rights we  
9 were meant to uphold. These victims include children and  
10.08 10 young people, and those who have experience of mental,  
11 intellectual and physical impairment. We recognise the  
12 burden of abuse has fallen disproportionately on Maori.  
13 The Inquiry will assist in exploring the true department  
14 and magnitude of that burden, one that has not been out  
15 in the open or acknowledged for Maori and for disabled  
16 people and for many others. We know from the stories we  
17 have already heard that the physical, sexual and  
18 emotional abuse inflicted on thousands of people have had  
19 horrific long-term often intergenerational impacts.

10.08 20 I would like to focus specifically on the impact of  
21 state abuse on disabled people. You have heard and will  
22 continue to hear from many during this Contextual  
23 Hearing, and throughout the Inquiry, about the  
24 experiences of disabled people in the care of the State.  
25 Anyone who has experienced abuse in the care of the State  
26 can face personal, structural and environmental obstacles  
27 when they come forward and seek acknowledgment of their  
28 experiences and answers to their questions.

29 But disabled people may be further hindered by  
10.09 30 additional social, physical and emotional barriers.  
31 These make it even harder for them to tell their stories,  
32 to be taken seriously and to access and participate in  
33 accountability processes. Systems that are already  
34 convoluted, unwelcoming and obscure can become

- 691 -

1 effectively impregnable. The system can take advantage  
2 of this silence.

3 In 2017 the Human Rights Commission engaged the  
4 Donald Beasley Institute to undertake some research to  
5 find out what was known about the abuse of people with  
6 learning disabilities and other types of impairments in  
7 the State care. You have already heard from Dr Brigit  
8 Mirfin-Veitch about the outcome of that project. Her  
9 findings provided a small glimpse into the experiences of  
10.10 10 a group that have been effectively invisible from the  
11 community, both because of the manner in which they were  
12 historically detained by the State but also in the public  
13 consciousness.

14 In 2008 New Zealand ratified the UN Convention on  
15 the Rights of Persons with Disabilities. The Convention  
16 does not accord new or additional rights to disabled  
17 people. It articulates the measures needed to overcome  
18 the structural discrimination that has prevented disabled  
19 people from enjoying universal human rights on an equal  
10.10 20 basis with others. It is therefore totally applicable to  
21 the early period of focus of this Inquiry, as well as in  
22 the present.

23 New Zealand made a commitment to uphold the rights  
24 in that Convention. I want to highlight just a few that  
25 are relevant to this Inquiry.

26 The right to equal recognition of the law.

27 The right to access to justice.

28 The right to liberty and security of the person.

29 The right to freedom from torture and cruel, inhuman  
10.11 30 and degrading treatment or punishment.

31 The right to freedom from exploitation, violence and  
32 abuse.

33 The right to live independently -

34 **CHAIR:** Can you moderate your speed because the

- 692 -

1 stenotyper is operating at extremely high speed.

2 **MS TESORIERO:** The ones relevant to the context in this  
3 Inquiry are the right to equal recognition before  
4 the law, the right to access to justice. The right  
5 to liberty and security of the person. The right  
6 to freedom from torture and cruel, inhuman and  
7 degrading treatment or punishment.

8 The right to freedom from exploitation, violence and  
9 abuse.

10.12 10 The right to live independently and be included in  
11 the community.

12 The right to respect for home and family - the  
13 Convention states that in no case shall a child be  
14 separated from parents on the basis of a disability of  
15 either the child, or one or both of the parents.

16 I urge you to actively uphold these commitments  
17 during the course of this Inquiry and particularly as you  
18 shape a vision for the future. To assist you in doing  
19 so, I direct your attention to relevant jurisprudence of  
10.12 20 the Committee on the Rights of Persons With Disabilities  
21 with regard to legal agency and supported  
22 decision-making. I refer you to general comment number 1  
23 on Article 12, Equal Recognition before the law and the  
24 associated March 2018 Report of the Special Rapporteur on  
25 the Rights of Persons With Disabilities; and her 2019  
26 report to the Human Rights Council on Ending the  
27 Deprivation of Liberty on the basis of disability.

28 Commissioners, I acknowledge the considerable work  
29 that you have put in to date. You have a complex task  
10.13 30 and hold a huge amount of hope in your hands. I wish you  
31 well in your endeavours. I also want to make clear my  
32 expectation as a Disability Rights Commissioner for this  
33 process.

34 In my view, the Inquiry must model a human rights

- 693 -

1 approach, consistent with Te Tiriti o Waitangi. This  
2 means tino rangatiratanga, full participation by affected  
3 people, meaningful accountability, equality and  
4 transparency. It means looking beyond detention or  
5 protection, beyond inclusion, to agency.

6 I want to see an Inquiry that places the survivors  
7 at the centre - an Inquiry that is truly and genuinely  
8 concerned with the wellbeing of those who have been  
9 affected. An Inquiry that will do whatever it takes to  
10.14 10 be accessible and inclusive, and to promote, encourage  
11 and enable all people to participate.

12 I hope it will be founded on principles of  
13 non-discrimination and empowerment. It will be  
14 consistent with the State's obligations and commitments  
15 under the Te Tiriti o Waitangi - it will give meaningful  
16 effect to those duties and responsibilities.

17 It must acknowledge the many losses suffered, losses  
18 of whakapapa, identity, educational opportunity, income  
19 and wellbeing, and losses of life. It must lead to  
10.15 20 accountability and mechanisms for tailored redress and  
21 rehabilitation and it must help make good the wrongs that  
22 have occurred and the injustices done.

23 I want to see the Inquiry carefully consider whether  
24 New Zealand has complied with its domestic and  
25 international obligations. Have we fulfilled the  
26 commitments made on the international stage. Are we the  
27 human rights leaders we want to be.

28 I would like to see an apology, a meaningful genuine  
29 apology for what happened, one that will mean something  
10.15 30 to those who survived the abuse that was inflicted on  
31 them, that will acknowledge the enduring hurt and trauma  
32 and assist individuals to find a pathway forward.

33 It must consider contemporary experiences because  
34 disabled people continue to experience abuse within state

- 694 -

1 funded services and continue to be neglected, bullied,  
2 abused and silenced as we do in wider society.

3 We must ensure that the lessons are learnt from the  
4 past to deal effectively with the present and the future.  
5 And I know you will act with urgency when existing abuse  
6 is brought to your attention.

7 Finally, most of all, I want this Inquiry to build  
8 towards a future where no-one is detained solely because  
9 they are disabled, or Maori, or impoverished. I want to  
10.16 10 see courageous honesty about the structures that continue  
11 to perpetuate abuse. We must dismantle not only the  
12 physical but also the conceptual walls that work to  
13 separate us and which devalue diversity and difference.  
14 These continue to create fertile ground for abuse.  
15 Fulfilling our human rights obligations by ensuring truly  
16 equitable access to adequate resources; by upholding the  
17 right to support to exercise legal agency; and by  
18 ensuring all voices are heard; is the best way to ensure  
19 that these things cease and will no longer again be part  
10.17 20 of our future.

21 **CHAIR:** Thank you Ms Tesoriero. Please convey the  
22 compliments of the Royal Commission and its members  
23 to your colleagues, Professor Paul Hunt, Mr Meng  
24 Foon and Ms Karanina Sumeo. Thank you.

25 **MS THOMAS:** I would now like to call the first witness  
26 for this morning, Robert Martin.

27 **CHAIR:** Thank you, Ms Thomas.

28

29

\*\*\*

30

31

32

33

34